

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEALS OF)	APPEAL NOS. 07-A-2156 thru 07-A-2159
CANYON COUNTY ASSESSOR from the)	(Bullock Property) &
decisions of the Board of Equalization of)	07-A-2160 thru 07-A-2165 (Hunter's Pt. Property)
Canyon County for tax year 2007.)	FINAL DECISION
)	AND ORDER

VACANT LAND APPEALS

THESE MATTERS came on for consolidated hearing January 30, 2008 in Boise, Idaho before Board Member Linda S. Pike. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Chief Deputy Assessor Joseph R. Cox, Commercial Supervisor Matthew A. Burton and Commercial Appraiser Michael S. Cowan appeared for the Appellant Canyon County Assessor Gene Kuehn. For Respondents, property owner Gregory O. Bullock appeared with Attorney Dennis P. Wilkinson.

These appeals are taken from decisions of the Canyon County Board of Equalization (BOE) concerning the original taxpayer protests of valuation for taxing purposes of property described by parcel number on Attachment A. The BOE reduced the subject assessments from the original value estimates determined by the Assessor.

The issues on appeal are the market values of land ownerships associated with a golf community development on January 1, 2007.

The value decisions of the Canyon County Board of Equalization are modified.

FINDINGS OF FACT

The subject property is ten (10) individual tracts that are largely contiguous. The property is part of "Hunter's Point PUD", a golf community development in Nampa, Idaho. The subject parcels involve about 131 acres. The associated ground is largely, but not exclusively, space associated with an 18-hole championship golf course. One parcel had a small farm house

present on the assessment date. The value associated with the structure is not in contention. Part of another parcel is entitled to future lot development. Mostly however, the appealed assessments involve a large portion of the development ground associated with a future public golf course in a planned unit development.¹ Both parties spoke to the particulars of each subject parcel from a historic, current (January 1, 2007) and future perspective.

The Hunter's Point PUD zoning overlay and associated Development Agreement were completed and signed in early September 2005. The agreement was apparently effective once "duly executed and recorded warranty deeds" were obtained by the "developer" from the "current property owners." These ownership transfers apparently occurred in late 2005 and 2006. The overall development was expected to be phased and improvements occasionally installed checkerboard. A summary of the parties' respective value cases follows.

The Assessor noted bare land is best valued with reference to recent comparable sales. Historic farming had ceased about mid-2006² and initial construction began on Hunter's Point, including the golf course development. The subject land was then characterized by the Assessor as "transition ground" to be valued in fee simple. There were no golf course ground comparable sales. Therefore, recent nearby sales of other transition (competitive) ground were researched. Nine (9) such property sales were discovered. Five (5) were presented as good evidence of subjects' land values, not just from the buyer/developer's standpoint but also from a seller's perspective. The comparable sales all dated to 2006. All were time-adjusted for date of sale

¹ From City of Nampa (10-26-1), the following purpose of its PUD's is observed: "The intent of PUD overlay district regulations is to permit greater flexibility, and consequently, more creative design for development than generally possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of neighborhood development, a higher level of urban amenities, and preservation of natural scenic qualities of open spaces. (Ord. 2140)."

² One parcel contained an active gravel pit operation.

based on county-wide “resale” analysis. Land sizes for the five (5) sales ranged from 7.39 to 54.7 acres and all were relatively close to subject land. The average time-adjusted price per acre was \$68,784. None of the comparable sale properties was associated with a PUD inside Nampa.

The Assessor felt the subjects’ land values should reasonably fall in or near the price range indicated by the sales. Sale No. 1, less than a 1/4 mile distant and with 54.7 acres, was considered the most comparable sale. After time-adjustment, it indicated \$49,333 per acre. On appeal from the BOE’s value rate of \$5,300 per acre, the Assessor contended subject lands’ fair market value as transition ground should be \$50,000 per acre.

The Assessor also considered the prices and other terms of sale associated with five (5) purchases made in connection with Hunter’s Point. Time-adjusted, the sales indicated an average rate of \$39,438 per acre. Unadjusted for date of sale, the indicated average for the purchases was \$26,590 per acre. The total acreage involved was 228.1 acres. The sales transpired over a 10-month period from late 2005 into 2006. The time adjustment here and for the above comparable sales was 5% per month through the end of 2006. The Assessor did not rely on or use an independent fee appraisal that addressed, among other things, the value of subject land “as is” on May 24, 2006. It was noted there were no land sales in the neighborhood for anywhere near the \$5,300 per acre suggested by Respondent and the fee appraisal.

Mr. Bullock was noted to have been a local and successful land developer for several years. Development of Hunter’s Point was a particularly large and unique undertaking due in part to PUD “open space” requirements. The planned golf course will meet and exceed the minimum open space requirements. Targeted opening for the golf course is May 2008.

Pursuit of a PUD and submission to the development agreement were voluntary, but

noted to be recorded conditions and restrictions, admittedly with entitlement benefits, that would run with the land. As such, Respondents argued the subject land should be valued specifically in connection with the planned golf course and other developer plans. The best value evidence of this appraisal unit was contended to be a component in a May 2006 independent fee appraisal under the “as is” scenario. Respondents noted the appraiser was specially qualified in golf course valuation.

Golf course proximity or frontage was noted to bring a price premium of 30%. Respondents claimed the course value was all, or mostly, reflected in the individual lot values. Present or future lot assessments were argued to capture the course development costs, and that little to no value remained to the course itself. Such development-driven courses were said to often be turned over to another for \$1 upon their completion. The subject course will apparently be operated by Mr. Bullock and his wife.

It was contended the BOE was supported in its determination of land value by the fee appraisal evidence for \$5,300 per acre (\$900,000 total value.) This appraisal was for the “Hunter’s Point Golf Club, a portion of the Hunter’s Point master-planned residential Development to be located on the South side of West Iowa Avenue and east of Midway Road”, Nampa, Idaho. The land area in the appraisal was 169.56+ acres and was understood by this Board to include all the land included in the assessments under appeal. There were four (4) “components” of the appraisal: 1) “As Is”, 2) “As If Completed”, 3) “As If Stabilized” and 4) “As If Completed.” The “As Is” value estimate was \$900,000.

The primary basis for the BOE decision to rule as it did was to give consideration to the PUD overlay and development agreement connected with the subject land. Recognizing these matters or factors in the assessed value was considered proper. Where taxpayers presented

a value based on the information, and the Assessor's Office did not, the BOE upheld the value determination of the fee appraisal which was presented to them by the taxpayers. As Respondents put it to this Board, the BOE recognized the subject land under the PUD was not typical development ground. The BOE recognized most of the ground was connected with open space standards and couldn't be incompatibly built upon.

Respondents contend the County comparable sales as development ground were not similar and should not be considered in the valuation of the subject land. Taxpayers also took exception with the time-adjustment applied to older sales. It was testified that the hot market had "stopped" by the latter portion of 2006. An example was provided from Hunter's Point where a large block sale (32 lots) of development lots fell through for lack of financing. The Assessor did not present the source data or calculations associated with the resale analysis.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The parties present dramatically different values for the subject lands. Respondent taxpayers generally argue for a rate of \$5,300 per acre, or about where the BOE set the appealed land assessments. While on appeal, the Assessor-Appellant seeks about \$50,000 per acre after initially estimating the land values at about \$35,000 per acre.

To measure market value, the property in question must be identified. Tax assessment addresses property value in fee simple interest. IDAPA 35.01.03.217.01.a. All property is taxable unless expressly exempted. Idaho Code §§ 63-203, 63-601. The Board finds the

individual subject parcels should be valued as part of a larger, single unit. This is how they are being used, i.e. collectively, and also how the parcels would likely sell on the assessment date. Identifying the appraisal unit is one of the first steps in the appraisal process. On this point, the parties would appear to agree the subject land may be properly considered a single unit under a common or connected ownership.

The property use was in transition as articulated by the Assessor. On the important assessment (lien) date of January 1, 2007, a prior exempt use as active agricultural lands had changed to construction of the new development. Idaho Code § 63-205(1). Agricultural use consistent with the agricultural lands exemption pursuant to Idaho Code § 63-604 had ceased.

On January 1, 2007, the subject land was covered by the PUD and development agreement, which were approved, signed and recorded in late 2005. Importantly, this Board agrees with the primary BOE finding that under the attendant circumstances the subject land should be valued not in a generic sense, but specifically in light of the associated PUD and accompanying entitlement. This being bare land, the Board notes a higher “best use” has not been supported or suggested. The property development under the PUD was continuing as of January 1, 2007.

The Assessor’s claimed values on appeal do not duly reflect the land in connection with the balance of the development under the PUD. Nor did the Board find the “As Is” value in the fee appraisal proper or supported. There were no land sales presented in support of the \$5,300 per acre. There were no land sales anywhere in the record even close to this rate. At the early development stage present on January 1, 2007, the golf course and balance of the development ground were still largely raw land. The bank appraisal looked solely at 169 acres as a potential golf course. This consideration was apart from the greater development and the fact that even

some of the subject land could be developed with individual lots.

On its own, an established golf course under the right circumstances might support a value of \$5,300 per acre. In fact, had the subject land been deeded common area, it would likely be assessed at “zero” dollars where the inherent value would be reflected in the individual lot sales. But here – on the specific assessment date, the overall development had not matured to its individual parts and uses that would warrant a fully consideration of the gold course. The Board found the fee appraisal of no help in identifying subject lands’ current market value for assessment purposes.

Borrowing from the transition description in the Assessor’s case, a broader consideration of the subject property’s potential use and contributory value is warranted. Giving consideration to the PUD/entitlement and the early transition status of the associated ground, the Board found the best indicator of subject lands’ value was the recent associated purchase price evidence.

There were five (5) purchases in 2005 and 2006, generally after the PUD and development agreement came into being, that were connected with the development and specifically the land associated with the future golf course. The Board found the two (2) most recent sales at roughly \$23,000 per acre were the most suggestive of subject lands current market value. These properties were about 21 and 128 acres in size and sold at about the same time for almost exactly the same price rate. We accept the testimony that one sale in early 2006 at \$40,000 per acre reflected special payment terms. The other earlier 2005 sales were generally supportive the \$23,000 rate. Some modest time adjustment is suggested by the sales for the period from late 2005 thru mid-2006. We did not find it necessary or warranted to make a further positive or negative time adjustment. Specific to the development, there was some evidence the market was cooling or softening. On the other hand, it was not demonstrated the

development was significantly curtailed or slowed.

The Assessor's land sales outside the PUD were recent and in some instances similar in size. However the development land involved was different from the subject land in important respects. No appraisal adjustments were presented for the differences. The subject land is part of a larger golf course community development, particularly the golf course ground in that development. The Assessor's land comparables were dissimilar in that respect and, as presented, were suggestive of value but not persuasively conclusive.

The Board finds the subject lands' market value is best reflected by the recent and associated purchases of that same type of ground within the PUD. Consequently the Board will set the land value at \$23,000 per acre. The land value decisions of the Canyon County Board of Equalization are modified.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the value decisions of the Canyon County Board of Equalization concerning the subject parcels be, and the same hereby are, modified to reflect a increase in the land values to \$23,000 per acre. Specific land values by parcel are reflected on Attachment A under the column titled BTA. There is no change to any improvement category value(s).

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellants.

MAILED MAY 7, 2008

Attachment A

Before the Idaho Board of Tax Appeals

2007 Canyon County Assessor Appeals - Bullock and Hunters Point Properties

	<u>Appeal No.</u>	<u>Parcel No.</u>	<u>Acres</u>	<u>BOE</u>	<u>Assessor</u>	<u>BTA</u>
Bullock Property						
1.	07-A-2156	320830000	.20	\$1,060	\$253,700	\$4,600
2.	07-A-2157	320720100	9.62	\$50,990	\$481,000	\$221,260
3.	07-A-2158	32086010B0	2.07	\$10,970	\$103,500	\$47,610
4.	07-A-2159	320730000 ³	40.60	\$215,180	\$2,030,000	\$933,800
Hunter's Point Property						
1.	07-A-2160	332098010B0	23.08	\$122,320	\$1,154,000	\$530,840
2.	07-A-2161	320860100	29.23	\$154,920	\$1,461,500	\$672,290
3.	07-A-2162	320830140	19.82	\$105,050	\$991,000	\$455,860
4.	07-A-2163	32083014C0	5.24	\$27,770	\$262,000	\$120,520
5.	07-A-2164	320830140E0	1.03	\$5,500	\$51,500	\$23,690
6.	07-A-2165	32083014F0	.45	\$2,400	\$22,500	\$10,350

³ It is reported about 22 acres of this parcel is associated with the golf course, the balance is slated for development.